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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,274	06/01/2001	Motoki Kato	SONYJP 3.0-176	5254
530	7590	09/27/2004	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			SEFI, BEHROOZ M	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/872,274

Applicant(s)

KATO, MOTOKI

Examiner

Behrooz Senfi

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 20,23 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19,21,22,24,25 and 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. Applicant's arguments filed 6/18/2004 have been fully considered but they are not persuasive.

Applicant canceled claims 20, 23 and 26, and added claims 28 - 30.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 - 19, 21 - 22, 24 - 25 and 27 - 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al (US 6,181,711).

Regarding claims 1 and 7, Zhang '711 teaches, "information processing apparatus" (i.e. fig. 4), comprising; "a separating unit operable to separate an input multiplexed stream into a first stream comprised of first stream information and a second stream comprised of stream information other than the first stream information" (i.e. fig. 4, separating unit 400, video stream 420, audio stream 422 and data stream 424), and "a setting unit operable to set a bit-rate of an output multiplexed stream" (fig. 4, units 514 - 518) and the claimed "a coding unit operable to re-encode the first stream under the coding condition" reads on (i.e. fig. 4, encoder 410), and "a multiplexing unit operable to multiplex the re-encoded first stream and the second stream to produce the output multiplexed stream" reads on (i.e. fig. 4, multiplexer 412),

and "controller operable to control coding condition for re-encoding the first stream" (i.e. fig. 5, 512). Although Zhang '711 fails to explicitly teach, "re-encoding the first stream on the basis of current bit-rate of the second stream". However, fig. 4 of Zhang shows that the streams of video and audio and data are extracted from the input multiplexed stream 210, and also shows that the rate controller 430, controls the coding conditions for re-encoding the video stream to achieve the desired output bit rate, which can be constant. Therefore, it would have been obvious to one skilled in the art, in order to achieve the desired output bit rate/constant, the combination of all three inputs has to become the same as the output bit rate. In other word, the out put bit rate  $O$  (output bit rate, constant) =  $V + A + D$ , therefore  $V = O - A - D$ . it is believed that it meets the limitation as claimed.

Regarding claims 2 and 8, the limitations claimed "control the coding conditions by determining a bit-rate difference between the bit-rate of the output multiplexed stream and the current bit-rate of the second stream ....." has been discussed and covered in claim 1 above.

Regarding claims 3, 9 and 15, Zhang '711 teaches controlling/determining the bit rate of the video encoding, which actually is the difference for use in video re-encoding as discussed above.

Regarding claims 4, 10 and 16, Zhang '711 teaches, "coding conditions are also based on the first stream information" (i.e. fig. 4, 420, 430, and 404 – 408 of Zhang).

Regarding claims 5 – 6, 11 – 12 and 17 - 18, Zhang '711 teaches, "re-encoding the first stream at a fixed bit-rate" and "variable bit-rate in claim 6" (i.e. col. 2, lines 33 – 35 of Zhang '711).

Regarding claim 13, the system and method of bit allocation for video and audio and compression and transmission of Zhang '711 is computer implemented. Therefore having a program for executing and carrying out the process step would have been obvious.

Regarding claim 14, the limitations claimed are substantially similar to claims 2 and 8; therefore the grounds for rejecting claims 2 and 8 also apply here.

Regarding claims 19, 22 and 25, Zhang '711 teaches, "first stream information includes video stream, and second stream information includes audio stream" (fig. 4, audio 422 and video 420 of Zhang).

Regarding claims 21, 24 and 27, the limitations claimed are substantially similar to claim 6; therefore the grounds for rejecting claim 6 also apply here.

Regarding claims 28 - 30, Zhang '711 teaches the additional limitation, "decoding unit operable to decode ....." (i.e. fig. 5).

### **Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Behrooz Senfi** whose telephone number is **(703)305-0132**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Chris Kelley** can be reached on **(703)305-4856**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**Or faxed to:**

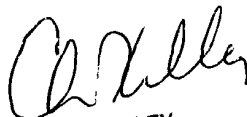
**(703) 872-9314**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relative to the status of the application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

B. S. B. S.

9/19/2004

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600